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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1947

No. 428

HARRISON PARKER,

Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

BRIEF OF THE PEOPLE OF THE STATE OF ILLINOIS, RESPONDENT.

STATEMENT OF THE CASE.

On May 9, 1946, the petitioner, Harrison Parker, wrote a letter to the foreman of the Cook County grand jury at the Criminal Court Building, Chicago, Illinois (R. 1). The foreman received the letter and turned it over to the State's Attorney, who filed an information for contempt against petitioner (R. 1-3). After the denial of motion to quash the information and two petitions for change of venue, and after the filing of answers to interrogatories and of an amended answer to the rule to show cause, petitioner was finally sentenced to six months in jail for contempt (R. 52-53). This sentence has been affirmed by the

Supreme Court of Illinois. (*People* v. *Parker*, 397 Ill. 305; petition for certiorari, pp. 4-7.)

The letter to the grand jury, upon which this contempt sentence is based, stated in substance (R. 1-3) that "the Tribune Company, with the connivance of the Kelly-Nash Democratic machine, has stolen from defenseless Cook County • • • the enormous sum of 100 million dollars" in the form of unpaid taxes and penalties, as a result of which, the letter continues, "the multi-millionaire stockholders of the Tribune Company were enormously enriched and the defenseless little home owners of Cook County were correspondingly despoiled" (R. 2). The letter concluded with an offer to produce evidence of this accusation to the grand jury.

The charges of tax fraud contained in this letter had twice been unsuccessfully litigated by petitioner through the courts of Illinois. *People ex rel. Parker* v. *Board of Appeals*, 367 Ill. 559, and *People ex rel. Parker* v. *Whealan*, 370 Ill. 243. These two cases are succinctly summarized by the Appellate Court of Illinois in the case of *Parker* v. *Kirkland*, 298 Ill. App. 340, where, in a footnote on page 344, the Court said:

> "This contention was subsequently determined adversely to Parker in an opinion filed in *People ex rel. Parker* v. *Board of Appeals of Cook County*, 367 Ill. 559. An appeal had there been perfected from an order of the circuit court dismissing Parker's complaint for a writ of mandamus, and it was held among other things that under Rule 11 of the State tax commission, an assessment of capital stock is in reality an assessment upon the intangible surplus over and above the assessment levied on the tangible property of the corporation, and where the value of a corporation's stock does not exceed the value of its tangible property, there is no basis for an assessment of capital stock as such. Subsequently Parker filed a second

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petition for mandamus, wherein the figures in his complaint had been modified and the allegations broken down so that they were set out by various years. In a recent opinion filed by the Supreme Court in *People ex rel. Parker* v. *Whealan*, 370 Ill. 243, the court held that 'there have never been any allegations that the assessments complained of were lacking in uniformity, as compared with the assessments made upon other similar property,' and the judgment of the circuit court dismissing the complaint for mandamus was again affirmed."

The offense involved in the instant case was not petitioner's first offense of this kind. After these two adverse decisions in his tax cases, petitioner sent letters to a former grand jury, making the same charges of tax fraud as a result of which he was sentenced to ten days in jail for contempt of court for obstruction of justice. This sentence was affirmed by the Supreme Court of Illinois in *People* v. *Parker*, 374 Ill. 524; this Court denied certiorari (see 313 U. S. 560 [1941]).

In his present petition for certiorari (pp. 2, 14), petitioner states on the authority of documents set forth at record pages 21 to 52, that before writing to the grand jury in this case he had appealed in vain to the Governor of the State, to two successor chief justices of the Criminal Court of Cook County, to the Board of Tax Appeals, to Thomas J. Courtney, State's Attorney of Cook County, and then later to his successor, William J. Tuohy. The record, pages 21 to 52 to which he refers, also reveals that he repeated these same charges of tax fraud not only to the above named officials and judges but likewise to bar associations, to corporations and to clubs (R. 23, 29, 32, 34, 41, 42, 43, 48, 50, 97-99) and also to six previous grand jury foremen (R. 44-45). None of these six previous grand juries took the action which his letters urged upon them, he says (R. 29, 33, 43, 81), whereupon he again pestered

the grand jury with the letter upon which the present information for contempt is based.

Petitioner includes in this record his petition for rehearing in the Supreme Court of Illinois (R. 65-125). In this he threatens to continue his course of conduct despite the sentence for contempt (R. 122, 123).

Petitioner does not claim that he ever properly petitioned any judge to call a special grand jury to investigate into the alleged tax frauds although the statutes of Illinois enable any citizen to do so; nor that he swore out a warrant against those whom he asserts are guilty.

THE QUESTION PRESENTED.

The question presented is:

> DOES ILLINOIS' INTERDICTION OF VOLUNTARY COMMUNICATIONS TO GRAND JURIES, WHICH TREATS SUCH COMMUNICATIONS AS CONTEMPTUOUS, AS THAT POLICY HAS BEEN ENFORCED IN THIS CASE, INFRINGE ANY FEDERAL CONSTITUTIONAL RIGHT OF PETITIONER?

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SUMMARY OF ARGUMENT.

1. It is the policy of the State of Illinois that no person may address "unofficial volunteer communications" to a grand jury charging persons with crime and inviting the grand jury to investigate and to indict such persons.

2. Such communications are calculated to obstruct justice and are contempts of court.

3. Petitioner, although warned by a previous contempt sentence of ten days, continued to send such communication to grand juries; he finally sent the communication on which this information is based and as a result was sentenced to six months in jail.

4. Neither the public policy of Illinois nor its enforcement in this case infringes any federal constitutional right or privilege of petitioner.

5. The right "to petition the government for a redress of grievances" does not entitle a citizen to tamper with grand juries or to interfere with their deliberations. His redress, if any, in this case was to petition a judge to empanel a special grand jury or to swear out a warrant for the arrest of those whom he accused.

ARGUMENT.

I.

The contempt sentence imposed upon petitioner for voluntarily communicating with the grand jury did not violate any of his constitutional rights.

As we have seen, petitioner, before committing the act in the case at bar, had twice unsuccessfully litigated through the Illinois courts his claims of tax fraud. *People ex rel. Parker* v. *Board of Appeals*, 367 Ill. 559; *People ex rel. Parker* v. *Whealan*, 370 Ill. 243. It had thus been held by the highest court in Illinois that that which petitioner claimed was a fraud was in fact no fraud. And, thereafter, for obstructing an earlier grand jury with exhortations to abandon their own inquiries and to deliberate on his, he had received a contempt sentence of ten days in jail, which was sustained on review. *People* v. *Parker*, 374 Ill. 524 (certiorari denied, 313 U. S. 560). Petitioner was thus put upon notice that the State of Illinois had in no uncertain terms declared its public policy to be that for one to annoy a grand jury in the performance of its functions by unsolicited communications was an obstruction of justice punishable by contempt proceedings. Petitioner nevertheless persisted in his course of action until the present contempt sentence was imposed.

The public policy of the State of Illinois with respect to interference with grand juries declared in *People* v. *Parker*, 374 Ill. 524, and in the instant case, *People* v. *Parker*, 397 Ill. 305 (Petition for Certiorari, pp. 4-7) may be stated as follows: No citizen may address to a grand

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jury unsolicited communications accusing other citizens of committing crimes and inviting the grand jury to start a prosecution thereof; to do so is punishable by contempt proceedings as an obstruction of justice. The wisdom of this public policy cannot be denied. In *People* v. *Parker* the Supreme Court of Illinois said in part (374 Ill. 524, 528):

> "The authorities in other jurisdictions cannot be harmonized. Some courts hold that a stranger has a right voluntarily to bring facts to the knowledge of the grand jury. (*In re Lester*, 77 Ga. 143; *State* v. *Stewart*, 45 La. Ann. 1164.) On the other hand, Wharton, in his treatise on Criminal Practice and Pleading, eighth edition, section 307, states: 'Sending an unofficial volunteer communication to the grand jury, inviting them to start, on their own authority, a prosecution, is a contempt of court, and a misdemeanor at common law.' To this same effect is *Commonwealth* v. *Crans*, 2 Pa. L. J. 172."

The Supreme Court of Illinois then went on to show that its holding had a sound basis in the celebrated doctrine of Mr. Justice Field, laid down in *In Re Charge to Grand Jury*, 2 Sawy. 667, Fed. Cas. No. 18, 255, 30 Fed. Cas. 992, thus (p. 528):

> "Mr. Justice Field announced the same rule in his charge to the Federal grand jury, (30 Fed. cases 992,) which is frequently quoted. He charged: 'You will not allow private prosecutors to intrude themselves into your presence and present accusations. Generally such parties are actuated by a private enmity and seek merely the gratification of their personal malice. If they possess any information justifying the accusation of the person against whom they complain they should impart it to the district attorney who will seldom fail to act in a proper case, but if the district attorney should refuse to act they can make their complaint to a committing magistrate before whom the matter can be investigated and if sufficient evidence

be produced of the commission of the public offense by the accused, he can be held to bail to answer to the action of the grand jury.' "

The Supreme Court of Illinois then pointed out that Mr. Justice Field's doctrine had been adopted by eminent text authorities, saying (pp. 528-529):

"Mr. Justice Field is also quoted by Wharton on Criminal Procedure, tenth edition, section 1295, as follows: 'There has hardly been a session of the grand jury of this court for years at which instances have not occurred of personal solicitation to some of its members to obtain or prevent the presentment or indictment of parties. And communications to that end have frequently been addressed to the grand jury filled with malignant and scandalous imputations upon the conduct and acts of those against whom the writers entertain hostility, and against the conduct and acts of former and present officers of this court and of previous grand juries of this district. All such communications were calculated to prevent and obstruct the due administration of justice, and to bring the proceedings of the grand jury into contempt."

Wharton's quotation from *Com.* v. *Crans* was then approved of by the Illinois Court as follows (p. 529):

" ' "Let any reflecting man", says a distinguished judge, "be he layman or lawyer, consider of the consequences which would follow, if every individual could, at his pleasure, throw his malice or his prejudice into the grand jury room, and he will, of necessity, conclude that the rule of law which forbids all communication with grand juries, engaged in criminal investigations, except through the public instructions of courts and the testimony of sworn witnesses, is a rule of safety to the community. What value could be attached to the doings of a tribunal so to be approached and influenced? How long would a body, so exposed to be misled and abused, be recognized by freemen as among the chosen ministers of liberty and security? The recognition of such a mode of reaching grand juries would introduce a flood of evils, disas-

trous to the purity of the administration of justice, and subversive of all public confidence in the action of these bodies.'' '' '' *

The Illinois Supreme Court then pointed out how the doctrine of Mr. Justice Field applied to the act of petitioner, in the following language:

> "We think the reasoning of Mr. Justice Field is sound and that he announced a wise principle of law. The letters written by defendant, Parker, are a glaring example of the evil against which that rule is directed. They are replete with malignant accusations against private citizen and public officials and are, in all probability, the result of personal enmity. Couched in the language they are, they could serve no useful purpose. Rather they expose the grand jury to the danger of being misled and abused by one motivated by personal animosity. If such communications with the grand jury were permitted and had their desired effect, many innocent people would be indicted solely because of personal enmity or the malice of one seeking revenge.
>
> "It cannot seriously be argued that defendant, by these letters, was not seeking to influence the action of the grand jury. We cannot agree that the rule forbidding such communications should be limited to cases pending before the grand jury."

This public policy of Illinois was confirmed in *People* v. *Doss,* 382 Ill. 307, and now again in the present case, *People* v. *Parker,* 397 Ill. 305 (petition for certiorari, pp. 4-7).

This same public policy adopted by Illinois is likewise followed in other jurisdictions. The federal courts and five other states have adopted the same rule. Thus:

(A) In Federal courts:

The doctrine of Mr. Justice Field, *In Re Charge to Grand Jury* [1872; CC], 2 Sawy. 667, Fed. Cas. No. 18,255, 30 Fed. Cas. 992, has been quoted above.

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* [King, P.J., in *Com.* v. *Crans,* 2 Clark (Pa.) 172, 193.]

Part of Mr. Justice Field's charge is quoted with approval in *Hale* v. *Henkel*, 201 U. S. 43, where this Court added the following observation (p. 65-66):

> "• • • As criminal prosecutions are instituted by the State *through an officer selected for that purpose*, he is vested with a certain discretion with respect to the cases he will call to their attention, the number and character of the witnesses, the form in which the indictment shall be drawn, and other details of the proceedings. • • • While the grand jury may not indict upon current rumors or unverified reports, they may act upon knowledge acquired either from their own observations or upon the evidence of witnesses given before them." (Emphasis supplied.)

In *United States* v. *Kilpatrick* (1883—D. C. North Carolina), 16 Fed. 765, 767, the Court, in speaking of grand juries, first pointed out that—

> "• • • Each state has its peculiar social conditions and modes of thought, its local usages, customs, and statutes, which have changed and modified the principles and rules of the English common law, and influenced state judicial decisions. • • •"

Stating the general principle in the broadest possible terms, the Court said (p. 769):

> "An individual has no right to communicate private information to a grand jury for the purpose of obtaining a presentment. If he desires to prosecute an offender there are two modes by which he may accomplish his purpose. • • •"

These two methods, said the Court, were, *first*, to give the information to the prosecuting attorney, and *second*, to swear out a warrant himself. The Court then continued:

> "It has been held a misdemeanor and a high contempt of court in any individual, acting as a volunteer, to approach or communicate with the grand jury in reference to any matter which either is or may come before them. 1 Whart. Crim. Law, § 507."

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The Court then showed (p. 770) that the law of North Carolina, where the Court was sitting, was to the same effect, by quoting from *Lewis* v. *Com'rs*, 74 N. C. 194, the following excerpt:

> "'None but witnesses have any business before them [*i.e., the Grand Jury*]. No one can counsel them but the court. They do not communicate with the solicitor, but with the court, either directly or through an officer sworn for that purpose. They act upon their own knowledge or observation in making presentments. They act upon bills sent from the court with the witnesses. The examination of witnesses is conducted by them without the advice or interference of others. Their findings must be their own, uninfluenced by the promptings or suggestions of others, or *the opportunity thereof.*'"

and then went on to quote from Mr. Justice Field's charge.

It is now a misdemeanor under the Federal Criminal Code to attempt to influence a grand jury of any court of the United States by communicating with them pertaining to their duties. (U. S. C. A. Title 18, Sec. 243.) (See *Duke* v. *U. S.* (C. C. A.), 90 F. (2) 317; 112 A. L. R. 317; *Duke* v. *U. S.*, 301 U. S. 492.)

(B) *North Carolina* has also adopted the rule of public policy that no citizen may address unsolicited communications to a grand jury. See *Lewis* v. *Commissioners*, 74 N. C. 194, quoted above in *U. S.* v. *Kilpatrick*, 16 Fed. 765.

(C) *California* has the same rule. Thus:

In the case of *In re Tyler*, 64 Cal. 434, 1 Pac. 884, where an attorney was held guilty of contempt for writing a letter to the grand jury denouncing many of the jurors, in a concurring opinion, Sharpstein, J., said (889):

> "I concur in the judgment. I think no one would be to the trouble of communicating his views in writing to a grand jury on a matter which it had, or was likely

to have, before it, unless he expected thereby to influence its action; and I think the policy of the law is to keep juries as free as possible from outside influence. How that can be done, if everyone who feels so inclined shall be at liberty to communicate his views in writing to a jury on any matter which it may have before it, is to me inconceivable. I think that every act of the kind constitutes an unlawful interference with the proceedings of a court."

(D) *New York* likewise has adopted the same rule in the most forceful terms:

In *People* v. *Sellick* (1886), 4 N. Y. Crim. Rep. 329, an indictment was set aside on the ground that grand jurors had been voluntarily approached by the attorney of a person complaining of an alleged crime. The indictment was quashed and the Court, quoting the doctrine of Mr. Justice Field and Wharton, had this to say of the practice of permitting private parties to make unsolicited approaches to the grand jury (pp. 332-333):

"Still, we are entirely satisfied that such acts are decidedly improper, because, if one person who honestly believes an indictment *should* be found may write letters to, and hold conversations with, grand jurors, urging them to investigate a case to that end, may not any other person who honestly believes an indictment should *not* be found do the same things to that end? And if this may be done by *one* person, it may be done by all; and if it may be done by one grand juror, it may be done with all; and what a spectacle would this present, giving the right to every person, as soon as a grand jury is drawn, to labor with each individual member thereof, at his home, upon the street or in place of business, by speech by writing and by printing, to adopt the views of every such person, either to find, or not to find, an indictment in each particular case. Certainly no value could be attached to the doings of a tribunal so to be approached and influenced, so to be abused and misled. And we think in a case where such circumstances are shown to exist,

where such communications as are shown in this case to have been made to the members of the grand jury, that it should be *conclusively presumed* that the grand jury were influenced by them, and that the affidavits of individual members of the grand jury should not be heard to contradict such presumption, or show that they were not, in fact, so influenced."

(E) *Pennsylvania:*

The courts of Pennsylvania have given us one of the most lucid expositions of the grave dangers of permitting conduct such as that of the petitioner in the case at bar. This exposition is set forth in *Com.* v. *Crans*, 2 Clark (Pa. 172, 193), quoted *in extenso* in the opinion in *People* v. *Parker*, 374 Ill. 524; also in *Doan's* case (1896), 5 Pa. Dist. R. 211, 17 Pa. Co. Ct. 521, where the court, in entering a contempt rule against one Doan who had voluntarily approached a grand juror and sought to obtain an indictment against an alleged offender, said in part (5 Pa. Dist. R., p. 211, 214):

"The offending here, if any, was an attempt to influence a grand juror in the discharge of the duties of his office by suggesting to him or urging the indictment of one or more citizens who were not under arrest, and therefore where the cases were not pending in court. The penal code of 1860, providing for the punishment of and defining embracery, refers to pending cases. Whether the offence be embracery at common law may yet be determined; we are now applying the facts to a more serious offence.

"In the case of *Com.* v. *Kauffman*, Judge Jones said: 'From the moment the name of the juror is announced in the papers—yes, from the time it is drawn from the wheel—his person is consecrated to the purpose of justice. The law draws around him an invisible cordon, which no man may pass but at his peril. It is as complete the moment he is selected as when he is empanelled.' * * *"

The court then quoted at length from *Com.* v. *Crans*, including the following (p. 215):

> "* * * Judge Parsons said: 'If the court is to instruct the grand jury on subjects for their consideration, then it follows that this body are not to receive instructions from any other source on questions which are to be determined by them. No one can communicate with that body or any of its members in relation to matters which are or may be proper for their inquiry, either on questions of law or fact. The grand jury being officers of the court, and, under its legal direction, are entitled to its protection from assault of every kind, whether the effort is designed to influence them on questions of law or fact, or intended to disturb them in their deliberations when assembled in the court or jury-room, or to menace them, by threats or violence, for the manner in which they shall perform their duty, or to control, influence or bias their judgment in any question likely to come before them for their consideration. To attempt anything of this kind is criminal in the eyes of the law. It is a high contempt of court, an obstruction of the administration of justice, and the tendency of all such acts is to corrupt the fountains of judicial tribunals, which, for the safety of society, should always be kept pure and ever free from suspicion. Such misdemeanors are to be punished, after a conviction upon a bill of indictment, upon the same principle that one is liable to an indictment for dissuading or endeavoring to dissuade a witness from giving evidence against a person indicted. He is liable to be indicted for a misdemeanor, as a disturber of the administration of justice, and for a high contempt of court.'"

Applying the law as laid down in the *Crans* case to the facts in the case before it, the Court in the *Doan* case contended (pp. 215-216):

> "* * * In this very case, the idea of presenting Mr. Pennypacker never entered the head of a single grand juror until, if we believe him, Mr. Price was approached the morning of the day the presentment

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was made. The mischief had been done before the case reached the court, and it would be absurd to say there is no remedy. The danger to the liberty of the citizen is too great to tolerate such an idea. The statute [*i.e., against embracery*] does not refer to such a case, but only to those pending in court. As to all others, the common law offence remains as before. *Commonwealth* v. *Crans* furnishes the law of this case.

"If the facts alleged against Mr. Doan be true, it would be a great wrong to society to discharge him, and its weakening effects upon public confidence in the jury system would be most serious. Notwithstanding all we have heard against it, we have an abiding faith in trial by jury as one of the safest bulwarks of personal liberty and property rights. But if it is once understood that jurors may be thus approached and the liberty of the citizen endangered, it will not be long before the people will rise up and destroy it forever.

"It has been said that 'the jury-box is the school of civil rights, which has elevated the Anglo-Saxon race so far above all others in their knowledge of the principles of liberty and law, that those that are brought into court hear cases of every description discussed, the laws expounded, and the rights and duties of every relation of life defined. Ideas are taken home and talked over by the people at the domestic hearth and in their social meetings, and the knowledge thus acquired and disseminated becomes an important part of the intellectual and political capital of the nation, and it is this institution which has elevated the English nation in their knowledge of their civil rights so far above the people of the continent.'

"If we would protect and preserve this institution, we must strike down the hand of whomever would deal it a foul blow or poison its source of life and purity."

In *McCullough* v. *Commonwealth* (1870), 67 Pa. 30, the Supreme Court of Pennsylvania approved of the doctrine of the *Crans* and *Doan* cases, saying: by way of dictum (p. 33):

"* * * It has, therefore, been held not to be allowable for individuals to go before the grand jury with their witnesses and to prefer charges. Such conduct is looked upon as a breach of privilege on part of the grand jury, and as a highly improper act on part of such volunteers. * * *"

(F) *Massachusetts:*

Massachusetts, while finding it unnecessary to pass upon the general principle that no citizen may address an unsolicited communication to the grand jury accusing others of alleged crimes, has nevertheless pointed out in no uncertain terms the evils of this practice in *Commonwealth* v. *Woodward,* 157 Mass. 516, 32 N. E. 939, where the court said by way of dictum (32 N. E. 940):

"* * * There are evils no doubt which would arise if a general practice were to spring up of importuning grand jurors privately in favor of or against the finding of indictments. If this were done on one side, it might also be done on the other; if with one grand juror, then with all; if by one person, then by many persons; if in one case, then in all cases. The evil or apprehension of evil from this source has been so great elsewhere as sometimes to lead to legislation for preventing or punishing it. *People* v. *Sellick,* 4 N. Y. Crim. Rep. 329. No such legislation has yet been deemed necessary in this commonwealth, and the question of the criminality of such importuning, if it should arise, would have to be determined on general principles of law. * * *"

And in the two related cases of *Commonwealth* v. *McNary* (Mass.), 140 N. E. 255, 29 A. L. R. 483, and *Commonwealth* v. *Chmielinski* (Mass.), 140 N. E. 258, the Court held that the context of the unsolicited letters there addressed to the grand jury by the two respective defendants were contemptuous because, among other things, they presumed to instruct the grand jury on the law and were of

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such a nature as to have a tendency to prejudice the minds of the grand jurors. The same is true of the letter in the case at bar (see R. 1-3).

As pointed out above, it makes no difference whether or not the communication addressed to the grand jury concerns a matter pending before it; nor does it make any difference whether the letter seeks to prevent an indictment or to obtain one. In either case, the tendency is to obstruct the grand jury in the proper performance of its functions.

Petitioner's Cases Distinguished.

Petitioner cites, among others, the cases of *In Re Lester*, 77 Ga. 143, *State* v. *Stewart*, 46 La. Ann. 1164, 14 So. 143, *King* v. *Second Natl. Bank & Trust Co.*, 234 Ala. 106, 173 So. 498 (a malicious prosecution suit); *Hott* v. *Yarbrough*, 112 Tex. 179, 245 S. W. 676 (a libel suit), and *Brack* v. *Wells* (Md.), 40 Atl. 2d 319. As pointed out by the Supreme Court of Illinois in *People* v. *Parker, supra,* some states have seen fit to adopt a different public policy in this regard and the decisions cannot be harmonized. However, this is a matter which each state may decide for itself. Furthermore, it should be noted that in the *Hott* case, the Court quoted a Texas statute under which "any credible person" could inform the grand jury as to offenses liable to indictment. In the *King* case, cited by petitioner, the matter had apparently been brought to the attention "of the solicitor and the grand jury."

Vogel v. *Gruaz*, 110 U. S. 311, cited by petitioner, was a suit for malicious prosecution against one who had made an accusation against the plaintiff in the grand jury room. It appears from the facts in the case that the defendant in the malicious prosecution suit had been directed to the

grand jury room by the *State's Attorney*. Furthermore, this Court stated (110 U. S. 309, 315):

> "• • • By the statute of Illinois in force at the time of this occurrence, it was made the duty of each State's attorney to 'commence and prosecute' all criminal actions, suits, indictments, and prosecutions, in any court of record in his county, in which the people of the State or county might be concerned. Rev. Stat. of 1864, chap. 14, § 5, subd. 1. Under this provision it was the province and the privilege of any person who knew of facts tending to show the commission of a crime, to lay those facts before the public officer whose duty it was to commence a prosecution for the crime. • • •"

In the cases of *In Re Quarles and Butler*, 158 U. S. 532, and *Worthington* v. *Scribner*, 109 Mass. 487, quoted by petitioner, the information in question was given to exclusive officers of the United States Government.

The case of *Thomas* v. *Collins*, 323 U. S. 516, is so far from the point as to need no discussion.

Suffice it to say that it is for each State to decide for itself whether or not it wishes to permit persons to approach a grand jury with unsolicited communications inviting, advising and urging the grand jury to prosecute alleged crimes which have not been officially presented to them.

II.

The Statutes of Illinois Make Ample Provision for Petitioner to Seek a "Redress of His Grievances."

Petitioner claims that his constitutional rights have been infringed in that he has been denied the right to petition the government for the redress of grievances. This claim is entirely frivolous. As pointed out above, he has annoyed a great many successive Grand Juries with repetitions of his charges of tax frauds which had theretofore twice been found by the Illinois Supreme Court to be without basis.

But even so, and even if petitioner desired again to "redress his grievances", the Illinois statutes provide an ample remedy. For if it were true, as he claims, that no official would take the action he desired, or if it were true, as he claims, that all previous Grand Jury were either "afraid" (R. 3) or refused for "political reasons" (R. 43) to invite him to bring his "evidence"—the Illinois statutes provide that "the judge of any court of record of competent jurisdiction may order a special venire to be issued for Grand Jury at any time when he shall be of opinion that public justice requires it". (*Ill. Rev. Statutes*, 1947, Chap. 78, Par. 19, p. 2078). This statute has been construed by the Supreme Court of Illinois in the case of *People* v. *Graydon*, 333 Ill. 429 (436):

> ". . . The question is committed to the discretion of the judge of the court, and the legislative act modifying the common law and authorizing the issuing of a special venire for a grand jury at any time when in the opinion of the judge public justice requires it violates no constitutional limitation. With the question of the policy or wisdom of authorizing the impaneling of a special grand jury when a grand jury regularly impaneled is performing the duties of such body we

> have no concern. The act authorizes the issue of a special venire for a grand jury at any time the judge shall be of opinion that public justice requires it, and we have no right to impose any further limitation on the exercise of the power."

Indeed, the power to call a special Grand Jury was inherent in the court at common law and would exist even were there no such statute. *People* v. *McCauley*, 256 Ill. 504.

Thus, it becomes apparent that the statutes and decisions of the State of Illinois afforded petitioner an orderly method whereby to "redress his grievances" if any such he had.

III.

A State May Abolish Grand Juries Entirely and Therefore May Restrict Their Inquisitorial and Accusatorial Offices. It May Enforce Such Restriction by Contempt Proceedings. There Has Never Been Any Common Law or Federal Constitutional Right on the Part of Citizens to Communicate Directly with Grand Jurors. Therefore, No Constitutional Right of Petitioner Is Involved.

It has been previously demonstrated that there is neither a federal nor a common law doctrine or policy permitting private citizens voluntarily to importune grand juries to investigate or indict other citizens. Under this point we demonstrate conclusively, we believe, that even if there were such a federal or common law policy, the Fourteenth Amendment would not enforce that policy upon the several states.

A State may, without denying due process of law either to accused persons or to those who desire to complain of alleged crimes, abolish grand juries altogether. (*Hurtado* v.

California, 110 U. S. 517; *Lem Woon* v. *Oregon*, 229 U. S. 586.) The Illinois Constitution of 1870, Article II, Section 8, p. 20, authorizes the abolition of the grand jury by law in all cases. A *fortiori*, then, a State, if it retains the grand jury at all and does not dispense with it, may require that causes be submitted to that body only by a judge, a prosecuting or other official or the grand jurors themselves, acting without unsolicited communication and advice from citizens who are not members of the grand jury.

Conclusion.

For the reasons urged in this brief, the State of Illinois respectfully submits that this Honorable Court either dismiss the writ of certiorari for want of jurisdiction, or in the alternative, that it affirm the judgment of the Supreme Court of Illinois.

Respectfully submitted,

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